

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS

BEAUMONT DIVISION

KEYON LAKEITH MITCHELL	§	
VS.	§	CIVIL ACTION NO. 1:06cv501
UNITED STATES OF AMERICA	§	

MEMORANDUM ORDER ADOPTING THE MAGISTRATE  
JUDGE'S REPORT AND RECOMMENDATION

Plaintiff Keyon Lakeith Mitchell, an inmate at the Federal Correctional Complex in Beaumont, Texas, proceeding *pro se*, brought the above-styled action against the United States of America.

The court referred this matter to the Honorable Earl S. Hines, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The magistrate judge recommends this action be dismissed as frivolous and for failure to state a claim upon which relief may be granted.

The court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such referral, along with the record, pleadings and all available evidence. No objections to the Report and Recommendation of United States Magistrate Judge were filed by the parties.

Plaintiff, however, has filed a motion to voluntarily dismiss this action. As the defendant has not been served, plaintiff's motion should be granted pursuant to FED. R. CIV. P. 41(a). Accordingly, the Report shall be adopted to the extent it recommends dismissal.

O R D E R

For the reasons set forth above, the findings of fact and conclusions of law of the magistrate judge are correct and the report of the magistrate judge is **ADOPTED** to the extent it recommends dismissal. It is

**ORDERED** that plaintiff's motion to voluntarily dismiss this action is **GRANTED**. A final judgment will be entered in this case in accordance with the magistrate judge's recommendations.

So **ORDERED** and **SIGNED** this **25** day of **September, 2006**.

A handwritten signature in black ink, appearing to read "Ron Clark", is written above a horizontal line.

Ron Clark, United States District Judge